

BEFORE THE DIVISION OF OIL, GAS AND
MINING DEPARTMENT OF NATURAL
RESOURCES
STATE OF UTAH

RECEIVED

AUG 16 2016

DIV. OF OIL, GAS & MINING

Paul
Leslie
Dana
Steve A.
Melissa R.

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IN THE MATTER OF TENTATIVE
DECISION TO APPROVE A LARGE
MINING AND RECLAMATION
PLAN FOR STAKER PARSON
COMPANIES, BEEF HOLLOW
FACILITY, SALT LAKE COUNTY,
UTAH

REQUEST FOR
AGENCY ACTION,
COMMENTS AND
PROTEST OF
HERRIMAN CITY

NO.M/035/0042

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Pursuant to Utah Code Ann. § 40-8-13(6)(d) and Utah Admin. R. 647-4-116, and the Notice of Tentative Decision to Approve published by the Division of Oil, Gas and Mining ("Division") dated July 15, 2016 in this matter, Herriman City ("City") hereby files this Request for Agency, Comments and Protest ("Request") setting forth the City's comments on and protest of the Division's Tentative Decision to Approve A Large Mining and Reclamation Plan for Staker Parson Companies, Beef Hollow Facility, Salt Lake County ("Decision"), as follows:

1. The City is a Utah municipal corporation and political subdivision of the State of Utah.
2. The Beef Hollow Facility is a large mining operation which will affect nearly 600 acres comprising portions of Sections 16, 17, 18, 19, 20, and 21 in Township 4 South, Range 1 West, Salt Lake County, Utah ("Property"). The Property is within the municipal limits of the City. The Beef Hollow Facility, the Property and its owner and Operator Staker Parsons Companies ("Staker") are subject to the municipal governing authority of the City and the City's municipal Code and ordinances.
3. In May 2009 CMC Rock LLC ("CMC"), Staker's predecessor in interest, was granted conditional use approval ("CUP Approval"), a copy of which is attached hereto, by the City to operate a "sand and gravel operation" on a portion of the Property that is now the subject of the proposed Large Mining Operations ("Proposed Operations") at issue in this matter. Staker assumed CMC's operations in or about May, 2010. The CUP Approval is subject to various conditions, including, but not limited to, the following:

a. Condition four of the CUP Approval requires CMC and Staker by assuming CMC's operations to "[s]ubmit a plan which shows the limits of disturbance for the entire property and the surface area for each phase that can be disturbed at one time." Staker has not submitted a plan that shows the entire property being disturbed and identifies phasing and timing.

b. Condition five of the CUP Approval requires CMC and Staker by assuming CMC's operations to submit "[a] development plan to be implemented later must be submitted for review prior to sand and/or rock removal, and the operation shall be carried out in conformance with the approved plan." Staker has not submitted a "development plan" to the City as required by the CUP Approval.

c. Condition fifteen of the CUP Approval requires CMC and Staker by assuming CMC's operations to "[o]btain any state permits required and provide a copy to the City." Staker has not submitted to the City any state permits and as evidenced by the Proposed Operations, has not obtained all such permits.

4. The Proposed Operations and the Decision do not comply with the requirements of R647-1-102(3) and the Utah Mined Land Reclamation Act (U.C.A. §§ 40-8-1, et seq., the "Act"). Since Staker has not satisfied the foregoing conditions of the City's CUP Approval, Staker's Proposed Operations and the Division's Decision do not satisfy the requirements of the Division's regulation R647-1-102(3) and the Act, which require Staker and the Proposed Operations to comply with all applicable local zoning ordinances. R647-10102(3) provides in part that "[t]he approval ... of notice of intentions shall not relieve an operator from his responsibilities to comply with ... applicable ordinances of all local ... jurisdiction...including, but not limited to ... municipal governments." In addition, the Act requires that "reclamation" as defined in the Act (§ 40-8-1(26)) be consistent with local environmental conditions. The Proposed Operations and Decision do not satisfy the applicable statutory and regulatory requirements. The City requests that the Proposed Operations not be approved by the Division until Staker and its Notice of Intention fully satisfy the conditions of the CUP Approval. The City further requests that Staker's compliance with the conditions of the CUP Approval be incorporated as requirements of any final approval by the Division on the Proposed Operations.

5. The Blasting Practices identified in the Proposed Operations and the Decision do not comply with the requirements of R647-1-102(3) and R647-4-107. R647-1-102(3) requires Staker and the Proposed Operations to comply with local zoning ordinances and R647-4-107 requires Staker and the Proposed Operations to protect public safety. The relevant portion of R647-1-102(3) are identified above and R647-4-107(1) provides in part "[t]he operator shall minimize hazards to the public safety and welfare during operations."

Herriman Code of Ordinances 4-1-1 adopts by reference the international fire code ("IFC"). In section 106.2 of the Notice of Intention received by the Division on October 15, 2015, ("NOI") Blasting Practices Staker states "[b]lasting will be performed by qualified contractors. The contractors have been trained in proper safety and design methods." Staker is required to satisfy the requirements of the IFC and their blasting plan should comply with national standards and best practices. Staker has not satisfied the requirements of R647-1-102(3) and R647-4-107(1). The City requests that the Proposed Operations not be approved by the Division unless and until Staker demonstrates in its Notice of Intention that the Proposed Operations satisfy the IFC, national standards, and best blasting practices. The City further requests that Staker's compliance with the foregoing blasting standards and practices be incorporated as requirements of any final Decision by the Division on the Proposed Operations.

6. The Postmining Land Use identified in Proposed Operations and the Decision do not comply with the Reclamation and Post-Mining Land Use Requirements of the Division's Regulations and the Act. The Division's regulation R647-4-110(1) requires Staker to identify proposed postmining land use for the area. R647-4-110(1) provides in part "[a] statement of current land use and proposed postmining land use for the disturbed areas." The Division's regulation R647-4-105.3.17 requires that the operator provide a map identifying the "location and the extent of the reclamation work to be accomplished by the operator upon cessation of mining operations. This drawing shall be utilized to determine adequate bonding and reclamation practices for the site." The Division's regulation R647-4-111.5 requires that the "operator shall leave the on-site area in a condition which is capable of supporting the postmining land use." The Act (U.C.A §§ 40-8-12.5 and -13) requires assurance of reclamation and posting of adequate reclamation surety. Unless the Proposed Operations and the Division's Decision adequately set forth the post-mining land use and properly estimate the costs thereof, there is no assurance that the mine operator will comply with the Act and the regulations.

In section 110.1 of its Notice of Intention, Staker states that "[p]ostmining land use will be kept to the uses prior to mining, which consisted of grazing and wildlife habitat. A second plan or post mining land use has been suggested referencing residential and commercial uses." The Division must require Staker's Notice of Intention to set forth fully the post-mining land use relative to residential and commercial uses of the Property. Staker's predecessor CMC represented to the City that after "sand and gravel" operations are concluded the area would be developed into residential and commercial uses. In addition, the City's CUP Approval requires that Staker submit a "development plan." The post-mining land use and reclamation to support it must be consistent with the required "development plan," which Staker has not provided to the City. The statement in Staker's Notice of Intention that a second plan has been suggested referencing residential and commercial does

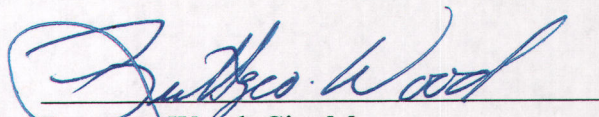
not satisfy the reclamation and post-mining land use requirements of the Division's regulations and the Act, or the condition of the CUP Approval requiring a development plan. Staker must set forth the details of the reclamation and the post-mining land uses sufficient to ensure that the reclamation and estimated reclamation costs and bonding are consistent with and capable of supporting the postmining land use of the Property and will be consistent with the CUP Approval and required development plan. The City requests that the Division not approve the Proposed Operations unless and until: (i) Staker submits to the City an acceptable development plan as required by the CUP Approval that is consistent with CMC's representation of post-mining residential and commercial land-use, (ii) the development plan is incorporated into Staker's Notice of Intention, and (iii) Staker and its Notice of Intention fully satisfy the reclamation and post-mining land use requirements of the Division's regulations and the Act, and (iv) Notice of Intention set forth the residential and commercial post-mining land use consistent with the development plan and set forth the reclamation activities and reclamation costs consistent with and capable of supporting the postmining land use and the development plan.

7. The City believes and therefore alleges that Jordan Valley Water Conservancy District intends to file a protest in this matter raising issues which affect the City and its residents. To the extent not inconsistent with this Request, the City supports and joins in any protest filed by Jordan Valley Water Conservancy District in this matter.

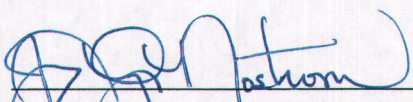
For the foregoing reasons, the City protests the Decision and requests that the Decision be withdrawn. The City further requests that the Division not approve the Proposed Operations and Staker's Notice of Intention, unless and until the Notice of Intention incorporates the foregoing requests and comments of the City. In the event, the City's foregoing requests and comments cannot be satisfactorily addressed, the City requests a hearing to resolve this protest and allow the City the opportunity to present evidence and reasons in support of this Request for Agency Action, Comments and Protest.

DATED THIS 15th day of August, 2016.

Herriman


Brett Geo Wood, City Manager

Attest


Jackie Nostrom, City Recorder



CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing REQUEST FOR AGENCY ACTION, COMMENTS AND PROTEST OF HERRIMAN CITY to be sent via facsimile, electronic mail, or mailed by first class mail, postage prepaid, the 15th day of August 15, 2016, to:

Dana Dean
Associate Director
State of Utah Dept. of Natural
Resources
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Staker Parson Companies
Attn: Michel Kurz and Travis Canfield
89 West 13490 South, Suite 100
Draper, Utah 84020

M. Craig Hall
Oldcastle Materials, Inc.
900 Ashwood Parkway, Suite 700
Atlanta, GA 30338-4780

State of Utah
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

Janet Criner & Douglas Wheadon
2789 West 10000 South
South Jordan, Utah 84095

Bank of Utah
2605 Washington Boulevard
Ogden, Utah 84401

Trustee of Jack W. Kunkler Trust A
Attn: Craig A. Standing
200 East South Temple, Suite 210
Salt Lake City, Utah 84111

Wasatch South Hills Co, LLC
1099 West South Jordan Parkway
South Jordan, Utah 84095

Dora Mower
1883 South 900 East
Salt Lake City, Utah 84105

Harold Beardon
1671 East 8640 South
Salt Lake City, Utah 84105

The Federal Land Bank of Berkeley
2180 Milvia Street
Berkeley, California 94704

Malibu Investment Company
2020 East 3300 South, #26
Salt Lake City, Utah 84109

Laguna Investment Company
2688 Wanda Way
Salt Lake City, Utah 84117

Camp Williams Department of Public Works
Attn: LTC Chris Filoso
17800 Camp Williams Road
Riverton, Utah 84065

South Farm LLC
4393 Riverboat Road Suite 450
Salt Lake City, Utah 84123

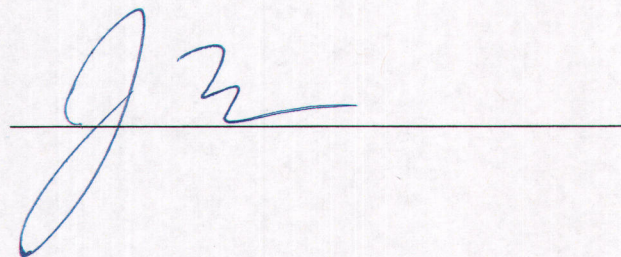
Shirley Butterfield
6237 West 13100 South
Herriman, Utah 84096

Salt Lake County Water Conservancy
PO Box 70
West Jordan, Utah 84084

Utah Department of Transportation
PO Box 148240
Salt Lake City, Utah 84414

Curtis McDougal
11576 South State Street, Suite 102 B
Draper, Utah 84020

Jordan Valley Water Conservancy District
8215 South 1300 West
West Jordan, Utah 84088



Founded 1851



13011 S. Pioneer St. • Herriman, UT 84065

Office: (801) 446-5323

Fax: (801) 446-5324

May 29, 2009

CMC Rock LLC

Scott Cusick

71 East Wadsworth Park Dr

Draper, UT 84020

Re: File Number 09C09 (Beef Hollow)

Dear Scott Cusick:

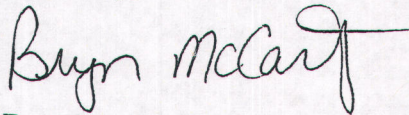
The Herriman Planning Commission at their regular meeting on March 12, 2009 granted approval to your request for a sand and gravel operation on property located as specified on the three attached legal descriptions. The approval is subject to the following conditions.

1. The operation shall not be located within 600 feet of a residence.
2. Hours of operation will be limited to 7AM to 7PM, unless an exception is granted by the City with an approved noise and lighting plan.
3. The use will be temporary and shall be reviewed every 6 months.
4. Submit a plan which shows the limits of disturbance for the entire property and the surface area for each phase that can be disturbed at one time.
5. A development plan to be implemented later must be submitted for review prior to sand and/or rock removal and the operation shall be carried out in conformance with the approved plan.
6. The use shall be operated in a manner that eliminates unnecessary dust, noise, and odor (as illustrated by, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust). This shall also include having a water truck permanently on site.
7. The site must be clear of all equipment, material and debris upon completion of the project.
8. All public improvements that are damaged during the operation of the temporary use must be repaired or replaced within 60 calendar days.
9. A reclamation bond shall be required sufficient to ensure restoration of the site to original or other substantially beneficial condition consistent with local plans. The bond shall be tied to the project phasing.
10. Only sand and/or rock mined on the premises may be processed in any crushing plant located on the lot or premises.

11. Must have access onto an approved truck route and not gain access through any local streets.
12. Obtain a state stormwater discharge permit.
13. Receive a grading/land disturbance permit from the City Engineering Department.
14. Must have traffic control and a roadway access plan approved by the City.
15. Obtain any state permits required and provide copy to the City.
16. Work with City Engineer on removing material uniformly.

If you have any questions please contact the Planning Department during regular business hours.

Sincerely,

A handwritten signature in black ink that reads "Bryn McCarty". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryn McCarty
Planner I
planning@herriman.org

- Attachment 1: Malibu
Attachment 2: Wheadon Upper 120
Attachment 3: Wheadon Lower 80